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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

S.C.,

Petitioner,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,

Respondent;

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Real Party in Interest.

E071967

(Super.Ct.No. RIJ1800460)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Walter H. Kubelun,
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied.

Brent Valdez for Petitioner.

No appearance for Respondent.

Gregory P. Priamos, County Counsel, James E. Brown, Guy B. Pittman, and Julie
Koons Jarvi, Deputy County Counsel, for Real Party in Interest.

Petitioner S.C. (mother) filed a petition for extraordinary writ pursuant to California Rules of Court, rule 8.452, challenging the juvenile court's order terminating reunification services as to her children, T.B. and S.B. (the children) and setting a Welfare and Institutions Code¹ section 366.26 hearing. Mother argues there was insufficient evidence to support the court's denial of reunification services under section 361.5, subdivision (b)(2). We deny the writ petition.

FACTUAL AND PROCEDURAL BACKGROUND

On July 2, 2018, the Riverside County Department of Social Services (DPSS) filed a section 300 petition on behalf of the children. T.B. was six years old at the time and S.B. was five. The petition alleged that the children came within the provisions of section 300, subdivisions (b) (failure to protect), and (g) (no provision for support). Specifically, the petition alleged that mother had an unresolved history of substance abuse, suffered from mental health issues, and administered inappropriate physical discipline. The petition also alleged that mother's whereabouts were unknown.²

The social worker filed a detention report stating that DPSS received a referral for general neglect. It was reported that mother went to a police station to report that she was being stalked by a radio disc jockey. However, it was discovered that the disc jockey had attempted to file a restraining order against mother, who was accused of stalking him.

¹ All further statutory references will be to the Welfare and Institutions Code, unless otherwise noted.

² The petition contained allegations regarding the children's father, who is not a party to this writ.

Mother became upset because the police were not doing anything regarding her being stalked, and she pulled the police station's phone out of the wall. It was reported that she was under the influence of methamphetamine and was delusional. Mother was arrested for vandalism, being under the influence of a controlled substance, and possible child endangerment, as it was confirmed there was no electricity or food in her home. The children were dirty and hungry.

The court held a hearing on July 3, 2018, and detained the children in foster care. The court ordered services to be provided pending further proceedings, including alcohol and drug testing, parenting education, substance abuse treatment, and counseling.

The social worker filed a first amended section 300 petition, which amended some allegations and added an allegation under section 300, subdivision (c) (serious emotional damage).

On September 10, 2018, the court held a contested jurisdiction hearing and sustained the amended section 300 petition. At county counsel's request, the court issued permanent restraining orders against mother with regard to two social workers, whom she had threatened with physical harm. The court ordered mother to participate in two psychological evaluations in order to obtain information regarding her mental health issues.

On November 7, 2018, the social worker filed an addendum report, recommending that the contested disposition hearing be continued. The social worker attached a copy of a psychological report by Dr. Kenneth Garrett, who had evaluated mother on October 17, 2018. Dr. Garrett administered several different tests and remarked that mother underestimated her psychiatric problems and history "in a defensive manner." He

diagnosed her with “unspecified personality disorder turbulent type” and “intermittent explosive disorder.” Dr. Garrett noted that it was unlikely for mother to benefit from psychological treatment, due to her attitudes and predispositions. He opined, from his evaluation and mother’s conduct, that mother took “very little responsibility for the extreme behaviors noted in her history.” She admitted to becoming assaultive and threatening a social worker, but denied many other allegations. Because of mother’s continued denials, Dr. Garrett stated that it was “difficult for [him] to imagine her regaining custody of her children at this time.”

The social worker filed another addendum report on December 26, 2018, recommending that the court deny mother reunification services under section 361.5, subdivision (b)(2). The social worker attached a copy of a psychological assessment of mother done by Dr. Robert Suiter. Dr. Suiter had mother complete several tests and questionnaires. He diagnosed her with “Bipolar II Disorder” and “paranoid traits.” He found no indication at all that mother accepted any responsibility for her conduct that led DPSS to become involved. Therefore, there was no indication she had any capacity to alter her patterns of conduct. Furthermore, mother did not show any meaningful understanding of the seriousness of her situation or the importance of the evaluation. Dr. Suiter opined: “[Mother] is incapable [of] benefitting from services at this juncture. Nor is there any indication at all she would be able to do so in the foreseeable future.” He further stated that the information gathered from the evaluation brought into question her “ability to even care for her children on a sustained basis.” Dr. Suiter stated that mother needed

psychotherapeutic treatment, as well as an evaluation for the potential administration of psychiatric medication.

The court held a contested disposition hearing on January 9, 2019, and adjudged the children dependents of the court. After hearing argument from counsel, the court cited Dr. Garrett's diagnosis of personality disorder turbulent type, as well as his comments that mother took little responsibility for her extreme actions and that it was hard to imagine her regaining custody of her children. The court also noted Dr. Suiter's diagnosis of bipolar disorder with paranoia traits and opinion that she was incapable of benefitting from services at that time or in the foreseeable future. The court inferred from the psychological evaluations that mother could not benefit from services. It removed the children from mother's custody and denied services under section 361.5. It further concluded that services were not in the best interest of the children. The court then set a section 366.26 hearing for May 7, 2019, to establish a permanent plan of adoption for the children.

ANALYSIS

There Was Substantial Evidence to Support the Court's Denial of Reunification Services Under Section 361.5, Subdivision (b)(2)

Mother argues there was insufficient evidence to support the court's order denying her reunification services under section 361.5, subdivision (b)(2). She specifically claims neither psychological evaluation provided evidence that she suffered from a mental disability that would render her incapable of utilizing services; rather, they found she could not benefit from services because she failed to take responsibility for her actions. She

further points out that the two evaluations do not agree upon any diagnosis. We conclude the evidence was sufficient to bypass her services.

A. Standard of Review

We review mother's claim under the substantial evidence test. "The duty of a reviewing court is to determine whether there is any substantial evidence to support the juvenile court's findings. In making this determination, we must decide if the evidence is reasonable, credible, and of solid value, such that a reasonable trier of fact could find the court's order was proper based on clear and convincing evidence." (*Curtis F. v. Superior Court* (2000) 80 Cal.App.4th 470, 474 (*Curtis F.*)) " 'All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact.' " (*Francisco G. v. Superior Court* (2001) 91 Cal.App.4th 586, 600.)

B. There Was Substantial Evidence to Support the Court's Finding

Section 361.5, subdivision (b)(2), provides: "Reunification services need not be provided to a parent . . . when the court finds, by clear and convincing evidence, any of the following: [¶] . . . [¶] (2) That the parent . . . is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services."

Family Code section 7827 is part of the chapter of the Family Code referred to in section 361.5, subdivision (b)(2). (*In re C.C.* (2003) 111 Cal.App.4th 76, 83 (*C.C.*)). Section 7827, subdivision (a), defines " 'mentally disabled' " to mean "a parent or parents

suffer a mental incapacity or disorder that renders the parent or parents unable to care for and control the child adequately.”

“To support a finding under subdivision (b)(2) of section 361.5, the juvenile court must obtain the reports of two qualified experts.” (*Curtis F.*, *supra*, 80 Cal.App.4th at p. 473; see Fam. Code, § 7827, subd. (c).) However, “there is no requirement that both experts must agree a parent is unlikely to benefit from services before the court may deny the parent services. Instead, [Family Code section 7827, subdivision (a)] requires a showing only of evidence proffered by both experts regarding a parent’s mental disability, evidence from which the court then can make inferences and base its findings.” (*Curtis F.*, at p. 474.)

Here, the court could easily infer from each expert’s evaluation that mother’s mental disabilities rendered her incapable of benefitting from services. Dr. Garrett diagnosed mother with “unspecified personality disorder turbulent type” and “intermittent explosive disorder.” He noted that her “histrionic temper tantrums and acting out behavior has led to her losing her children at this time, a fact that is very difficult for her to accept or deal with.” He noted that she “may be unwilling to self- examine her role in difficult situations and prolonged distress and may react externally by behaving erratically.” Dr. Garrett further opined that mother took very little responsibility for her extreme actions, which included acting hostile toward social workers, threatening to ram her car into the DPSS office, and having temper tantrums during court hearings. He found that it was “unlikely for her to benefit from psychological treatment due to her attitudes and predispositions.” Dr. Garrett concluded that, because of her continued denials, it was hard for him to imagine her regaining custody of her children.

Dr. Suiter diagnosed mother with “Bipolar II Disorder” and “paranoid traits.” He found that she had no meaningful insight into the “maladaptive nature of her conduct since DPSS first became involved with her,” and she accepted no responsibility for her conduct. As such, Dr. Suiter did not see any indication at all that she “ha[d] any capacity to alter her patterns of conduct.” In other words, mother was not going to change her behavior, since she saw nothing wrong with it. Thus, Dr. Suiter definitively concluded that mother was “incapable from benefitting from services at this juncture” or “in the foreseeable future.” He further questioned her ability to care for her children on a sustained basis.

In sum, each report contained evidence consistent with the conclusion that mother would not benefit from reunification services. Accordingly, substantial evidence supports the court’s findings, and the court properly denied mother services pursuant to section 361.5, subdivision (b)(2). (See *Curtis F.*, *supra*, 80 Cal.App.4th at p. 474.)

DISPOSITION

The writ petition is denied.

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McKINSTER
J.

We concur:

RAMIREZ
P. J.

MILLER
J.